

### REMARKS

Claims 1-3, and 5-19 are in this application and are presented for consideration. Claims 1, 3, and 6-8 have been amended, and new claims 15-19 have been added. The claims have been amended to address the Examiner's objections, and to place the application in better form.

Claims 3 and 10 have been objected to with regard to the term "parallelepipedic". Applicant notes that claim 10 sets forth that the sensor housing has a parallelepipedic form. In the embodiment of the present figures, the sensor housing is represented by reference 7. This housing 7 preferably has a rectangular box shape with top, bottom, left, right, front and back sides. The front side and the right side are facing out of the sheet in figures 1 and 2 respectively. In the embodiment of the present drawings, the shorter end face is the top side, and applicant has found that it is preferable to have the holder on this shorter top side. This arrangement makes it easier to hold the sensor during operation, and to prevent contamination of the sensor during operation.

Claim 3 has been amended to set forth a sensor housing with the parallelepipedic form. The original drawings show the features of claims 3 and 10. The specification has been amended to include the features of claims 3 and 10. These claims now have proper support in the specification.

Claims 1 through 14 have been rejected as being obvious over 222 in view of 871.

New independent claim 15 sets forth a holder defining a groove with open longitudinal ends. In the embodiment of the drawings, the holder is represented by reference 6 and one can see that the right and left longitudinal ends in figure 1 are open. Applicant has reviewed 222

and 871 and finds no teaching nor suggestion of any holder of a mouthpiece with open longitudinal ends. Element 66 of 222 has been used to describe the holder of the original claims. However element 66 does not define a groove with open longitudinal ends. Applicant has reviewed 222 and notes that element 66 has ultrasonic sensors 80 and 82 arranged at the longitudinal ends of the flow tube 36. The sensors 80 and 82 must be arranged at the longitudinal ends of the flow tube in order to measure the velocity. If element 66 of 222 had open longitudinal ends, 222 would be unable to measure the flow, and therefore would not operate properly. Accordingly, applicant finds no incentive or motivation to modify 222 to have open longitudinal ends. Therefore new independent claim 15 can not be obvious over 222 and 871.

Claim 1 has been amended to include the features of claim 4, and to add the feature that the stop extends outside of the holder when the trapezoidal section of the mouthpiece is in the holder. In the embodiment of the present drawings, the stop is represented by reference 3. As one can see, element 3 extends outside the holder when a trapezoidal section is in the holder 6. The rejection equates the stop of original claim 4 with element 50, and the holder with element 66 of 222. Applicant has reviewed 222 and notes that element 50 does not extend outside of element 66 when a trapezoidal section of any mouthpiece is in element 66. Therefore element 50 of 222 does not have all of the features of amended claim 1. Applicant further finds no teaching nor suggestion of all the features of the stop in 871. Therefore amended claim 1 cannot be obvious over 222 and 871.

Independent claim 8 has been amended to set forth that the receiving portion of the

holder is complementary to surfaces of the trapezoidal cross-section for firm seating of the mouthpiece in the holder. Support for the firm seating of the mouthpiece in the holder can be found in the specification on page 6 lines 5 through 7. 222 is used in the rejection to describe the trapezoidal shape of a mouthpiece, and a complementary shape of a holder. Applicants review of 222 finds no teaching nor suggestion of any trapezoidal shape of a mouthpiece and a complementary shape of a holder providing a firm seating of a mouthpiece in a holder. Applicants review of 222 finds that engagement rails 50 and engagement slots 52 with springs 54, hold the disposal portion 22 in the body 12, column 5 lines 37 through 41.

In a preferred embodiment of the present invention, the trapezoidal shapes of the mouthpiece and holder are chosen so that the mouthpiece wedges itself into the holder for a firm connection. This makes it easier and faster to insert the mouthpiece into, and remove the mouthpiece from, the holder. This is very advantageous for situations where numerous people need to be tested, and lighting conditions are poor, such as nighttime on the side of the road. Since the feature of the trapezoidal shapes forming a firm connection is not present in the applied prior art, the combination of the applied prior art cannot cause independent claim 8 to be obvious. Applicant further finds no incentive nor motivation in the applied prior art for trapezoidal shapes to form a firm connection. Therefore claimed 8 further defines over the applied prior art.

New claims 16 through 19 set forth further features of the relationship between the mouthpiece and the holder. Applicant finds no teaching nor suggestion of these features in the applied prior art. Therefore these claims further define over the applied prior art.

Claims 7 and 14 set forth that the mouthpiece can be mounted in the holder in two different positions. The rejection states that 222 has a mouthpiece that is capable of being designed to be positioned by having the engagement rails 50 and the engagement slots 52 on the bottom side of the device instead of the top. Applicant notes that the mere fact that references can be modified is not sufficient to establish obviousness, as indicated in the MPEP 2143.01. Furthermore the body 12 of 222 has an outlet flow passage 60 on the bottom. If the disposal portion 22 was inserted upside down, the flow from the user's mouth would not flow in the proper direction, and therefore 222 would not operate properly. Therefore a modification to have the disposal portion 22 of 222 be inserted in two different positions would cause 222 to not operate as intended, and therefore such a modification would not be obvious. Claims 7 and 14 therefore further define over the applied prior art.

Furthermore, the ability to position the mouthpiece in two different positions is advantageous because it simplifies installation. Since there are more correct ways to install the mouthpiece, there are less incorrect ways. This increases the probability that an operator fumbling in the dark will install the mouthpiece correctly. The speed and ease of use of the present invention is therefore increased by the ability to position the mouthpiece in two different positions.

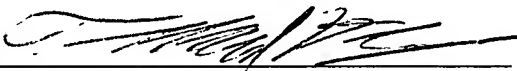
Applicant also would like to bring to the Examiner's attention that the corresponding German and British patent applications have issued with document numbers DE 103 16 333 and GB 2 400 321, respectively.

If the Examiner has any comments or suggestions which would further favorable

prosecution of this application, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

At this time Applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted  
for Applicant,

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BY:  DATE: November 22, 2005